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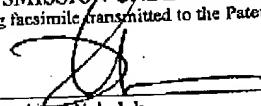
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DATE: 7/28/2004

RE: Serial No.: 09/433257Docket No.: A23782TO: Examiner: Wen Tai LinArt Unit: 2154Fax Number: (703) 872-9306FROM: Michael J. Ure, Reg. No. 33,089Telephone: (408) 474 - 9077

TRANSMISSION INCLUDES:

31 Pages (including cover sheet)Brief for Appellant in triplicate - 10 pages

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I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE WITH SUFFICIENT POSTAGE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAILSTOP APPEAL BRIEF, ASSISTANT COMMISSIONER OF PATENTS AND TRADEMARKS, P.O. BOX 1450, ALEXANDRIA, VA, 22313-1450, ON:

Date: 7/28/2004 By:  DANIEL MICHAEL
PATENT
Attorney's Docket No. PHA 23.782

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

SHTEYN

Application No.: 09/433,257

Filed: 11/04/1999

Group Art Unit: 2154

Examiner: Wen Tai Lin

Appeal No. _____

For: PARTITIONING OF MP3 CONTENT
FILE FOR EMULATING STREAM-
ING

BRIEF FOR APPELLANT

Mailstop APPEAL BRIEF
Assistant Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This appeal is from the decision of the Primary Examiner dated 03/25/2004, finally rejecting claims 2-6, 14, 17 and 20, which are reproduced as an Appendix to this brief.

The Commissioner is authorized to charge the fee of \$330, and any other fees that may be required by this paper, to Deposit Account No. 14-1270.

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(1) Real Party in Interest

The real party in interest is the assignee, Philips Electronics North America Corporation.

(2) Related Appeals or Interferences

Applicant is not aware of any related appeals or interferences.

(3) Status of Claims

Claims 2-6 and 12-22 remain pending in the present application. Claims 2-6, 14, 17 and 20 have been finally rejected and are on appeal.

(4) Status of Amendments

All amendments have been entered. No amendment after final has been submitted.

(5) Summary of the Invention

The present invention relates to a flexible, client-driven method of media retrieval and presentation, as well as an intelligent client device for carrying out such method. In an exemplary embodiment, the method uses a parseable control information file such as an XML file. Media retrieval and presentation begins with retrieval and parsing of the control information file. A control script is then run by an XML interpreter, using output from the XML parser. In general, the control script retrieves files, or segments of the media presentation, from

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one or more servers in a computer network for sequential playout. Insofar as the particulars of which files are retrieved, when and from where, however, the control script offers great flexibility. For example, two or more alternative files may be provided corresponding to the same section of a media presentation, with the client device selecting between the alternatives based on device capability, for example, or network conditions, or other considerations.

(6) The References

The rejections are based on Cohen, U.S. Patent 5,751,968. Those claims (claim 2 and 3) not rejected based solely on Cohen have been rejected based on Cohen in view of Lin, U.S. Patent 6,405,256.

Cohen teaches a client/server content streaming system. On the server side, the server forms from a multi-media presentation segment data files. On the client side, an interactive display application (i.e., player software) receives the files from the server and displays the multi-media presentation.

Lin describes a data streaming transmission method and system in which a network server communicates with a client device through a network. Within the network, communications pass through some number of caching servers, each having an expandable buffer. As illustrated in Figure 2 thereof, data segments are in effect queued up within a series of cache servers, with data segments occurring earlier in order being queued up within cache servers nearer the client device. Upstream caching servers send data segments at a constant rate to their next downstream caching servers. If there is network congestion between an upstream

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caching server and a downstream caching server, steps are taken to absorb that congestion, if possible without adversely impacting overall streaming, e.g., by decreasing the streaming rate from the upstream caching server and/or increasing the buffer size in the downstream caching server. When the buffer approaches overflow, streaming is temporarily discontinued. When congestion subsides, streaming resumes, and the streaming rate and the buffer size are opportunistically increased and decreased, respectively.

(7) The Rejections

In the Final Rejection of March 25, 2004, claims 4-6, 14, 17 and 20 were rejected under 35 USC 102(b) as being anticipated by Cohen. The rejection states in part:

Cohen taught the invention as claimed including ... the client device parsing the control information file [58, Fig. 5; col. 6, lines 26-50; i.e., the interactive display application program must parse the connection file in order to obtain the reference for segment file and its associated status]....

Claims 2 and 3 were rejected as being unpatentable over Cohen in view of Lin. The rejection states in part:

[I]t would have been obvious ... that Cohen's data file size should be a factor of the client's buffering and display capability because this criterion makes sure that the data streaming in Cohen's media presentation can be achieved without overflowing the client's buffering capacity [col. 5, lines 39-53].

(8) Issues

The following issues are presented:

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1. Whether claims 4-6, 14, 17 and 20 are anticipated by Cohen.
2. Whether claims 2 and 3 would have been obvious from Cohen in view of Lin.

(9) Argument

Addressing now the rejection under 35 USC 102 based on Cohen, the rejection states in part:

Cohen taught the invention as claimed including ... the client device parsing the control information file [58, Fig. 5; col. 6, lines 26-50; i.e., the interactive display application program must parse the connection file in order to obtain the reference for segment file and its associated status]....

Applicant respectfully disagrees. As described in column 6 of Cohen, clicking a link associated with the "connection file" of a desired media presentation causes an interactive display application—i.e., a proprietary media player--to be activated. The media player knows *a priori* the format of the connection file, which therefore need not be parsed. The connection file and the media player must be updated, if at all, in lock-step. The resulting system is rigid and inflexible.

The connection file in Cohen is *not* received and acted upon by the browser, which Applicant agrees does perform parsing in order to render content. Rather, it is received and acted upon by the interactive display application, or media player.

Accordingly, claims 4-6, 14, 17 and 20 are not believed to be anticipated by Cohen.

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Claims 2 and 3 are believed to patentable at least for the same reasons as independent claim 14.

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(10) CONCLUSION

For the foregoing reasons, claims 4-6, 14, 17 and 20 are not anticipated by Cohen, nor would claims 2 and 3 have been obvious in view of the same.

Applicant respectfully submits therefore that the Final Rejection should be REVERSED.

Respectfully submitted,

By: Michael J. Ure
Michael J. Ure
Attorney for Applicant
Registration No. 33,089

Date: July 27, 2004

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APPENDIX OF CLAIMS

2. The method of claim 14, wherein partitioning of media presentation information between the multiple related files is determined by information about the client.
3. The method of claim 14, wherein partitioning of media presentation information between the multiple related files is determined by information about the computer network.
4. The method of claim 14, wherein the media presentation comprises an audio presentation.
5. The method of claim 14, wherein the media presentation comprises a video presentation.
6. The method of claim 14, wherein partitioning of media presentation information between the multiple related files is described within the control information file using tags corresponding to respective files.
12. The device of claim 18, wherein:
 - the device interprets the control information to retrieve multiple files from the computer network for sequential play-out.
13. The device of claim 12, wherein:
 - the means for parsing comprises an XML parser; and
 - the means for retrieving and using comprises an XML interpreter.
14. A method of, at a client device, forming a media presentation from multiple related

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files, including a control information file, stored on one or more server computers within a computer network, the method comprising:

downloading the control information file to the client device;
the client device parsing the control information file; and
based on parsing of the control information file, the client device:
retrieving a first file and using contents of the first file to begin a media presentation;
concurrent with the media presentation, retrieving a next file; and
using content of the next file to continue the media presentation.

15. The method of claim 14 wherein the control information file is an XML file.

16. The method of claim 15, wherein the XML file identifies multiple alternative files corresponding to a given segment of the media presentation, further comprising selecting and retrieving one of the multiple alternative files.

17. A method of storing media presentation information within a computer network including multiple server computers, the method comprising:

storing on a server computer a control information file of a format to be parsed by a client device; and

storing on one or more server computers multiple related files accessible by the client device to, based on parsing of the control information file, form a media presentation from the multiple related files.

18. The method of claim 17, wherein the control information file is an XML file.

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19. The method of claim 18, wherein the XML file identifies multiple alternative files corresponding to a given segment of the media presentation.
20. A client device for forming a media presentation from multiple related files stored on server computers within a computer network, comprising:
 - means for downloading files to the client device;
 - means for parsing a control information file; and
 - means for, based on parsing of the control information file:
 - retrieving a first file and using contents of the first file to begin a media presentation;
 - concurrent with the media presentation, retrieving a next file; and
 - using content of the next file to continue the media presentation.
21. The method of claim 20, wherein the control information file is an XML file.
22. The method of claim 21, wherein the XML file identifies multiple alternative files corresponding to a given segment of the media presentation, the means for retrieving comprising means for selecting and retrieving one of the multiple alternative files.